

## REMARKS

In the Office Action mailed November 4, 2003, the Examiner rejected claims 70-78 under 35 U.S.C. § 102(e) as being anticipated by Shei et al., U.S. Patent No. 6,262,394 ("Shei") and under 35 U.S.C. § 102(b) as being anticipated by Oda, et al., U.S. Patent No. 5,028,761 ("Oda").

The Examiner rejected claims 79 under 35 U.S.C. § 103(a) as being unpatentable over Oda, in view of Robards et al., U.S. Patent No. 5,900,173 ("Robards"). However, the Examiner indicated that claims 80-84 contained allowable subject matter and would be allowable if rewritten in independent form. The Examiner also objected to claim 78 based on an informality.

In response, Applicant has amended claim 78 to address the informality identified by the Examiner. However, Applicant traverses the claim rejections and respectfully requests reconsideration for the reasons set forth below.

### **1. Claims 70-78 Are Patentable Over Shei**

The Examiner has rejected claims 70-78 as being anticipated by Shei. However, the Examiner has not established that Shei discloses each and every element in these claims. In particular, claim 70, the independent claim, recites the step of inserting the tray into a receiving space defined by a freestanding cover having a flange and a support section, with "said support section substantially defining said receiving space."

The Examiner has described cover 80 in Shei as "a freestanding cover with a flat flange and a lower support section." However, the Examiner has not explained how, if at all, the support section of cover 80 in Shei substantially defines the receiving space into which the tray is inserted. In fact, as best shown in Figures 3 and 5 of Shei, the receiving space for the tray is substantially defined by heat sink 46, not by cover 80. In particular, Shei teaches that heat sink 46 has a cavity 48 that generally conforms to the exterior cross-sectional configuration of the

tray. (col. 2, lines 7-10; col. 3, lines 40-49). The purpose of this conforming shape is to enable the heat sink to concentrate the heat generated by the heater at the tray. (col. 2, lines 10-12; col. 4, line 66 – col. 5, line 6). In contrast, cover 80 rests on horizontal shoulders 70 that are positioned only slightly below the tops of the trays. (col. 4, lines 27-41; col. 5, lines 28-31).

Thus, cover 80 does not substantially define the receiving space for the tray. Moreover, by teaching the use of a heat sink that conforms to the shape of the tray so as to concentrate heat at the tray, Shei teaches away from using a cover that substantially defines the receiving space for the tray. Accordingly, claims 70-78 are patentable over Shei and the other prior art of record.

## **2. Claims 70-79 Are Patentable Over Oda**

The Examiner has rejected claims 70-78 as being anticipated by Oda and has rejected claim 79 as being unpatentable over Oda in view of Robards. However, the Examiner has not established that Oda discloses each and every element in these claims. In particular, claim 70, the independent claim, recites the step of inserting the tray into a receiving space defined by a freestanding cover, with the cover “being disposed in said heated compartment.”

The Examiner has described pan 12 in Oda as a “tray” and has described top 13 in Oda as a “freestanding cover.” However, the Examiner has not explained how, if at all, Oda teaches inserting the tray into a receiving space defined by a cover that is disposed in a heated compartment. In fact, Oda teaches the opposite approach of placing an already-covered tray in the heating area, rather than the approach of inserting the tray into a receiving space of a cover that is disposed in the heating area. In particular, Oda teaches placing a casserole 11 in heating portion 93, with the casserole 11 comprising the pan 12 and the top 13. (col. 4, lines 44-46). Thus, Oda teaches placing a tray that is already covered into a heating area, and teaches away from inserting a tray into a space defined by a cover with the cover “being disposed in said

heated compartment” Accordingly, claims 70-79 are patentable over Oda and the other prior art of record.

### **3. Other Matters**

Applicant filed an Information Disclosure Statement with Form PTO-1449 in May 2002. However, Applicant has not received a signed copy of this Form PTO-1449 back from the Examiner. Accordingly, Applicant respectfully requests the Examiner to initial each reference listed on the Form PTO-1449, to indicate the Examiner’s consideration of each reference, and to return the signed Form PTO-1449 to the Applicant.

### **4. Conclusion**

Applicant submits that the present application is now in condition for allowance, and notice to that effect is hereby requested. Should the Examiner feel that further dialog would advance the subject application to issuance, he is invited to telephone the undersigned at any time at (312) 913-0001.

Respectfully submitted,

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